



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Chemical Waste Management, Inc.

**File:** B-244443

**Date:** June 28, 1991

Arup K. Bose, Esq., for the protester.  
Scott H. Riback, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Where Commerce Business Daily (CBD) notice announcing agency's plans to make sole-source award contains footnote 22--giving other potential sources 45 days to submit expressions of interest showing their ability to meet agency's stated requirements--a potential source must first timely respond to the CBD notice and receive a negative agency response before it can protest the agency's sole-source decision at the General Accounting Office (GAO). GAO will dismiss protest as premature where protest does not indicate that the protester submitted an expression of interest to the agency before filing the protest at GAO.

### DECISION

Chemical Waste Management, Inc. protests the National Institutes of Health's (NIH) announced intent to procure radioactive waste disposal services on a sole-source basis from GSX Services, Inc. Chemical Waste Management contends that NIH should compete this requirement rather than award on a sole-source basis.

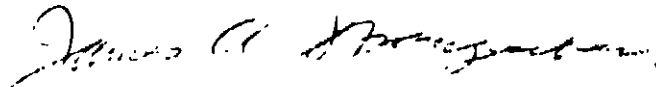
We dismiss the protest as premature.

The agency announced the proposed sole-source award to GSX in the May 29, 1991, Commerce Business Daily (CBD). The CBD synopsis referenced footnote 22 that gave potential sources 45 days to submit expressions of interest showing their ability to meet agency's stated requirements.

We require a protester to submit a timely expression of interest responding to a CBD notice and to receive a negative agency response as a prerequisite to filing a protest challenging an agency's sole-source decision. DCC Computers, Inc., B-244149, May 29, 1991, 91-1 CPD ¶ \_\_\_\_\_. This procedure gives the agency an opportunity to reconsider its sole-source decision in light of a serious offeror's preliminary proposal, while limiting challenges to the agency's sole-source decision to diligent potential offerors.

Chemical Waste Management's June 12, 1991, protest does not indicate that it submitted an expression of interest to the agency before protesting to our Office. Consequently, its protest to our Office is premature.<sup>1/</sup>

The protest is dismissed.



James A. Spangenberg  
Assistant General Counsel

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<sup>1/</sup> By our calculations, Chemical Waste Management has until July 15, 1991, to submit an expression of interest to NIH detailing its ability to provide the required services. Should NIH reject Chemical Waste Management's expression of interest and proceed with the sole-source procurement of the services, the firm may protest that determination to our Office if it still believes it has grounds for protest.